

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING (this “Memorandum”) is made as of _____, 2022, by and among FCGP DEVELOPMENT LLC, a Delaware limited liability company (the “Developer”), the other property owners identified in Schedule I hereto (each a “Property Owner” and, collectively with the Developer, the “Property Owners”), the CITY OF FALLS CHURCH, VIRGINIA (the “City”), and WEST FALLS COMMUNITY DEVELOPMENT AUTHORITY (the “CDA”).

WITNESSETH

WHEREAS, each Property Owner is the owner of leasehold rights in certain real property located in the City and more particularly shown on Exhibit A attached hereto and incorporated herein by this reference (collectively, the “Property”); and

WHEREAS, the Property Owners (or certain predecessors in interest thereto), along with other co-petitioners, submitted to the City Council, the governing body of the City (the “City Council”), a petition (the “Petition”) pursuant to Sections 15.2-5152 *et seq.* of the Code of Virginia, requesting that the City Council create a community development authority to assist in the development of certain public infrastructure improvements as described in the Petition and on Exhibit B hereto (the “Public Improvements”) in conjunction with the development of the Property as a mixed-use project to be undertaken in accordance with a special exception approved by the City Council on _____, 2022 (collectively, the “Project”); and

WHEREAS, by ordinance adopted on August 9, 2021 (the “Ordinance”), attached hereto as Exhibit C, the City Council created the CDA and the West Falls District (as described in the Ordinance); and

WHEREAS, the transactions contemplated by the Petition and by this Memorandum will benefit the citizens of the City by promoting increased employment opportunities, a strengthened economic base and increased tax revenues and additional retail and residential opportunities not currently available in the local area; and

WHEREAS, the parties wish to set forth several understandings with respect to the CDA and its plan of finance in this Memorandum:

NOW, THEREFORE, in consideration of the foregoing, the parties set forth the following agreements and understandings:

1. Definitions. The following terms as used in this Memorandum each shall have the meaning as stated in this paragraph as follows:

“Administrative Expense Fund” means the Administrative Expense Fund to be established and held by the Trustee in accordance with the terms and provisions of the Indenture.

“Annual Installment” means the amount of the Special Assessment to be levied in a particular year pursuant to Virginia Code Section 15.2-5158(A)(5) and paragraph 5 of this Memorandum.

“Assessment Amount” means the amount of an Annual Installment sufficient (1) to pay all Costs other than debt service on Bonds anticipated by the City to be due or incurred in the next calendar year, (2) to pay debt service on Bonds anticipated by the City to be due or incurred in the next calendar year, (3) to Fully Fund the Debt Service Reserve Fund, and (4) to pay administrative costs of the City and the CDA, as described in Sections 5(k) and 5(l).

“Bonds” means (i) bonds to be issued by the CDA pursuant to Virginia Code Sections 15.2-5158(A)(2) and 15.2-5125 and other applicable law, in aggregate principal amounts sufficient to produce amounts available for the capital costs of Public Improvements equaling \$_____, as set forth in this Memorandum, (ii) any bonds issued to refund Bonds issued under the Indenture, and (iii) any additional bonds issued under the Indenture.

“CDA” means the West Falls Community Development Authority created by the City Council by the Ordinance.

“City” means the City of Falls Church, Virginia.

“City Attorney” means the Falls Church City Attorney.

“City Council” means the City Council of the City of Falls Church, Virginia.

“City Manager” means the Falls Church City Manager.

“Costs” means the portion to be paid with proceeds of the Bonds of the costs associated with the acquisition, design, construction, project management and development of the Public Improvements, capitalized interest not to exceed an amount calculated through the first semi-annual interest payment date that immediately follows the third anniversary of the issuance of the applicable series of Bonds, required reserves, the costs of issuing the Bonds (including, but not limited to, attorneys’ fees, underwriter fees, engineering fees and appraisal fees), additional administrative costs incurred by the City in connection with the creation, administration, and operation of the CDA and the performance of the City’s other obligations pursuant to this Memorandum, certain administrative costs to be incurred by the CDA as set forth below in paragraph 5(l) of this Memorandum, and debt service on the Bonds.

“Debt Service Reserve Fund” means the Debt Service Reserve Fund to be established and held by the Trustee in accordance with the terms and provisions of the Indenture and for the purposes set forth in paragraph 5(i) of this Memorandum.

“Developer” means FCGP Development LLC, a Delaware limited liability company, or its successors and assigns.

“EDA” means the Economic Development Authority of the City of Falls Church, Virginia.

“Fully Fund” means to fund the Debt Service Reserve Fund up to the levels specified in paragraph 5 of this Memorandum.

“Indenture” means the trust indenture between the CDA and the Trustee under which the Bonds will be issued.

“Memorandum” means this Memorandum of Understanding.

“Ordinance” means the ordinance adopted by the City Council on August 9, 2021, creating the CDA and the West Falls District, a copy of which is attached hereto as Exhibit C.

“Parcel” means an individual parcel of real property located within the West Falls District.

“Project” means a mixed-use town center project located on the Property with up to _____ square feet of retail, multi-family housing, hotel and/or office space to be undertaken in accordance [with rezoning case _____ that was approved by the City Council on ____ __, 202__.]

“Property” means the taxable interests in real property in the City that is shown on Exhibit A to this Memorandum.

“Public Improvements” means the public infrastructure improvements set forth in Exhibit B to this Memorandum, all of which are deemed necessary or desirable to meet increased demands to be placed upon the City as a result of the development or redevelopment within or affecting the Project.

“Rate and Method” means the rate and method for apportioning Special Assessments among Parcels that is set forth in Exhibit D to this Memorandum, as it may be amended in connection with the pricing and issuance of the Bonds.

“Retained Amount” means that portion of an Assessment Amount not needed to pay debt service on Bonds anticipated by the City to be due or incurred in the next calendar year or needed to Fully Fund the Debt Service Reserve Fund or to pay administrative costs of the City and the CDA.

“Special Assessment” means an assessment levied and collected pursuant to Virginia Code Section 15.2-5158(A)(5).

“Special Tax” means a special tax on taxable real property within the West Falls District levied pursuant to Virginia Code Section 15.2-5158(A)(3).

“Trustee” means the trustee pursuant to the Indenture for the Bonds, which will be selected by agreement of the CDA and the City, and is anticipated initially to be U.S. Bank Trust Company, National Association.

“Virginia Code” means the Code of Virginia of 1950, as amended.

“West Falls District” means the portion of the City that is within the West Falls District, as defined in and created by the City Council by the Ordinance.

2. Issuance of Bonds.

(a) The CDA proposes that the Bonds be issued under an Indenture between the Authority and the Trustee. The proceeds of the Bonds will be used to pay a portion of the costs associated with the acquisition, design, construction, project management and development of the Public Improvements, capitalized interest not to exceed an amount calculated through the first semi-annual interest payment date that immediately follows the _____ anniversary of the issuance of the applicable series of Bonds, required reserves, the costs of issuing the Bonds (including, but not limited to, attorneys’ fees, underwriters’ fees, engineering fees and appraisal fees) and additional administrative costs to be incurred by the City in connection with the administration and operation of the CDA.

(b) The maximum length of the terms of the Bonds, exclusive of the capitalized interest period, shall be __ years. The CDA shall not issue any series (including any sub-series) of Bonds without first seeking and receiving the express prior consent of the City Council for such issuance. No professional or consultant service provider, including but not limited to bond counsel, financial advisors, underwriters, and auditors, shall be engaged by the CDA unless and until the City Manager or the City Attorney, as applicable, has approved the selection of each such professional or consultant service provider and also approved the compensation or basis for determining the compensation to be paid to each such service provider for their services.

3. Development of Public Improvements. The Public Improvements to be financed with the proceeds of the Bonds, along with other funds which shall be provided by the Developer, consist of various public infrastructure improvements more particularly described in the Petition and in Exhibit B hereto. Bond proceeds may not be used to pay for any infrastructure improvements other than the Public Improvements without the express written consent of both the City and the CDA, which consent may be withheld for any reason. The CDA, or the Developer or its designee on behalf of the CDA, will enter into contracts for the acquisition, design, construction, project management and development of the Public Improvements.

4. Submission of Information. Before the issuance of each series of the Bonds, the Developer or the CDA, as appropriate, will submit to the City a Limited Offering Memorandum or other disclosure document to be used in connection with the sale of those Bonds and such other information with respect to the CDA’s finances and the issuance of those Bonds as the City may reasonably request. Such documents will be furnished to the City solely for informational purposes and receipt of any such document does not constitute approval of any such document by the City or any person not submitting such documents. Neither the CDA nor the City is required to participate in offering or issuing any Bonds if the City concludes that it has insufficient information to meet all applicable disclosure requirements for such offering or issuance.

5. Payment of the Costs of the Bonds.

(a) Sources of Revenues Generally.

(1) The sources of revenues for the payment of Costs associated with the Bonds are as set forth below in paragraph 5(b).

(2) The CDA will assign its right to receive any Special Assessment revenues and, if applicable, Special Tax revenues to the Trustee and will request that the City pay any such revenues collected by the City directly to the Trustee on behalf of the CDA, except as provided below. Each year the City, subject to appropriation, and the CDA will assign and transfer to the Trustee all revenues from Special Assessments and, if applicable, all Special Tax revenues, except the Retained Amount.

(3) Based on the applicable debt service schedule, the City shall pay over to the Trustee for the Bonds all such revenues in its custody that are required to pay debt service on such Bonds, to Fully Fund the Debt Service Reserve Fund, and to pay administrative expenses of the City and the CDA (other than administrative expenses that are to be paid from the Retained Amount) in the order of priority set forth below in paragraph 5(b).

(b) Sources of Revenues to Pay Debt Service and Other Costs. In any calendar year, any current and past due Assessment Amount, but excluding Costs paid with Bond proceeds as described above in paragraph 2(a), shall be paid first from available revenues derived from Special Assessments or special Taxes, if applicable; provided, however, that if Special Assessment or Special Tax revenue, if applicable, is insufficient to pay the entire current and past due Assessment Amount, then second from available revenues in the Debt Service Reserve Fund. The Developer hereby acknowledges the City's rights and remedies to enforce any such Special Assessment or Special Tax liens that are in arrears.

(c) Special Assessment: Definition, Request for Collection, and Determination of Amount. Not later than February 15 of each year, commencing on the February 15 occurring in the year immediately following the year in which the Bonds (or a series thereof) are first issued, the CDA will furnish the annual report described in paragraph 6(b) to the City and will request the City to collect an Annual Installment of the Special Assessment. For each tax year, the CDA shall request that the City levy and collect the Annual Installment in an amount sufficient to pay the entire Assessment Amount for such year. The portion of any Assessment Amount to be levied upon each Parcel shall be determined in accordance with the Rate and Method, which amount may vary among the different Parcels and may be zero with respect to one or more Parcels (as defined in the Rate and Method) if otherwise consistent with applicable Virginia law, provided, however, that if any method of apportionment set forth in the Rate and Method shall be deemed not to comply with applicable law by a court of competent jurisdiction, then the City shall have the right to reapportion the obligation among the various Parcels in any manner that it reasonably believes is lawful. In making the above request, the CDA also will provide such information as the City may request to enable it to collect the Annual Installment. The parties to this Memorandum recognize that the Developer intends to enter into various private contractual agreements that may result in it or other parties being reimbursed or credited by one or more

private parties to those contractual agreements for all or a portion of any Annual Installment paid or payable as provided herein; however, neither the CDA nor the City shall have any obligations or responsibilities pursuant to or because of any such private agreements, and the presence or absence or terms of any such agreement shall be of no consequence regarding the obligation any person otherwise will have to pay any Annual Installment or, if applicable, Special Tax to the City.

(d) Special Assessment: City's Agreement and Assignment.

(1) The City agrees that so long as the Bonds are outstanding the City will collect the Annual Installment and pay the amounts received thereunder to the Trustee, subject to appropriation each year by the City Council. To the extent permitted by law, the City pledges and assigns all of its right, title and interest in the Annual Installment to the CDA, except that portion of the Retained Amount that may be retained by the City to pay administrative costs as described below in paragraph 5(k). The CDA, in turn, will pledge and assign all of its right, title and interest in the Annual Installment to the Trustee to make debt service payments on the Bonds and, if necessary, to Fully Fund the Debt Service Reserve Fund. The City agrees to pay the amounts received from each Annual Installment directly to the Trustee, provided, however, that the City need not pay over to the Trustee that portion of an Annual Installment constituting a Retained Amount. The portion of the Annual Installment assigned to the Trustee by the City includes any payments from foreclosures, less costs of collection, but excludes City and CDA administrative costs described below in paragraphs 5(k) and 5(l).

(2) The City's obligation to make payments to the Trustee of the Annual Installment shall not be deemed to be a general obligation of the City, shall be payable solely from payments of the Annual Installment received by the City, and shall be subject to and dependent on appropriations being made from time to time of the Annual Installment by the City Council for such purpose.

(e) Special Assessment; Landowners' Agreement. In accordance with Virginia Code Sections 15.2-5158(A)(5) and 15.2-2405, the Special Assessment contemplated to be levied and apportioned in accordance with this Memorandum and the Rate and Method set forth in Exhibit D to this Memorandum are to be levied in accordance with an agreement (a "Special Assessment Agreement") between the governing body and the abutting landowners, which Special Assessment Agreement will need to be entered into subsequent to [or simultaneously with] this Memorandum at the time and with respect to each separate series of Bonds issued under this Memorandum in order to constitute such landowners' agreement to such Special Assessment with respect to the cost of improvements to be funded by such separate series of Bonds issued under this Memorandum. This Memorandum does not itself constitute an agreement between the governing body and the abutting landowners apportioning the cost of improvements under Virginia Code Section 15.2-2405. Each Special Assessment Agreement shall include a representation and agreement by each lessee under a ground lease and owner of a fee simple interest for itself and its successors and assigns that the Special Assessment, as the same will be apportioned pursuant to the Rate and Method and by agreement of each lessee under a ground lease and owner of a fee simple interest, does not exceed the peculiar benefit to the assessed

property resulting from the Public Improvements and is apportioned to property within the West Falls District on a rational basis.

(f) Special Tax. In the event that any portion of the Special Assessment is determined to be legally unenforceable in a final decree by a court of competent jurisdiction, or if the CDA determines that the permitted amount of the levy of the Special Assessment will be insufficient in any year to pay the debt service on the Bonds and the administrative expenses of the City and the CDA, the City may levy a Special Tax in accordance with this paragraph 5(f) and this Memorandum. In such event, not later than February 15 of each year, commencing the February 15th on or immediately following such a final decree or determination by the CDA, the CDA will request that the City levy and collect the Special Tax at such rate as is needed to make up any such deficiency in an Assessment Amount, provided, however, that any assessment, levy, and collection of a Special Tax as a result of such request, and any payment of Special Tax revenues, is solely at the discretion of the City and subject to annual appropriation. As previously requested in the Petition by the lessees under all ground leaseholds and owners of fee simple interests in the Property, for any tax year the maximum rate of the Special Tax may be set in excess of the limit set forth in Virginia Code Section 15.2-5158(A)(3) of \$0.25 per \$100 of assessed fair market value of any taxable real estate or the assessable value of taxable leasehold property, to the extent that a Special Tax in excess of that rate is reasonably determined to be necessary to make up any deficiency described in this Section 5(f).

(g) Billing and Collection of Special Assessment and Special Tax Generally. The City shall bill the Annual Installment in the same manner and at the same time as it bills its real estate taxes. The amount of the Annual Installment and, if applicable, the Special Tax levied upon each Parcel will be recorded in the normal manner in the official tax records of the City. Penalties and interest on delinquent payments of the Annual Installment shall be charged as provided by law. The Annual Installment and, if applicable, the Special Tax shall be billed and collected on the same dates as the City's real estate taxes. Payments of the Annual Installment and, if applicable, the Special Tax collected by the City shall be segregated from all other funds of the City and may not be used for any other purpose by the City.

(h) Collection of Delinquent Special Assessments and Special Taxes. The City's customary tax payment enforcement proceedings will apply to the collection of any delinquent payment of Special Assessments or, if applicable, Special Taxes. The City shall pursue the collection of such delinquent payments with the same diligence and in the same manner as it employs in the collection of the City's general ad valorem real estate taxes. The City agrees that it will provide notice to the CDA of any legal proceedings to be instituted for the collection of delinquent payments of Special Assessments and, if applicable, Special Taxes. The parties understand and agree that the City's ordinary discretion in this regard allows it to decide not to expend resources to collect *de minimis* outstanding amounts. The CDA agrees to cooperate with the City in any such enforcement action.

(i) Debt Service Reserve Fund; Administrative Expense Fund.

(1) A debt service reserve fund (the "Debt Service Reserve Fund") shall be established with the Trustee under the Indenture on or before the date of issuance of the Bonds. The Debt Service Reserve Fund shall be established and maintained [at such

level as the City reasonably determines is needed to appropriately enhance the marketability of the Bonds and that is allowable under applicable federal tax laws and regulations][in an amount equal to the least of (i) the maximum principal and interest due on the Bonds in the current or any future fiscal year, (ii) ten percent of the original stated principal amount of the Bonds (or ten percent of the issue price of such Bonds if required by the Internal Revenue Code), and (iii) 125 percent of the average annual principal and interest due on the Bonds in the current or any future fiscal year]. The Debt Service Reserve Fund shall be deemed to be Fully Funded when it is funded at the level described above. The Debt Service Reserve Fund shall be used by the Trustee as set forth above in paragraph 5(b).

(2) The Debt Service Reserve Fund shall be Fully Funded initially from proceeds of the Bonds available for that purpose. If at any time thereafter the Debt Service Reserve Fund becomes less than Fully Funded, then Special Assessment revenues and Special Tax revenues, if applicable, as available in that order of priority, shall be used to provide sufficient revenue to Fully Fund the Debt Service Reserve Fund as soon as reasonably practical, as determined by the City.

(3) Certain excess funds held by the Trustee not otherwise required to be held in any other fund established under the Indenture shall be transferred to the Administrative Expense Fund established by the Trustee under the Indenture. Amounts in the Administrative Expense Fund may be used as more particularly set forth in the Indenture, from time to time, to pay the administrative costs of the City and the CDA relating to the CDA, the Bonds, and the West Falls District, as more particularly described in Sections 5(k) and 5(l).

(j) Notice to Subsequent Landowners. The Developer will include in each sales contract and each deed or lease for the conveyance of any interest in any portion of land within the West Falls District that is subject to an outstanding Special Assessment or Special Tax, if applicable, a disclosure statement that includes a statement that such CDA charges may be imposed annually, a statement of the amount of the applicable portion of the Special Assessment and the last rate of the Special Tax, if applicable, set by the City Council, and setting forth the name and address of the CDA's administrator or other location where information regarding the CDA, the Special Assessment, and the Special Tax, if applicable, may be obtained. All such sales contracts, deeds and leases shall also include a covenant that all subsequent deeds or leases conveying any interest in land within the West Falls District that is subject to an outstanding Special Assessment or Special Tax, if applicable, include such disclosure statement. The Developer agrees that it will notify the CDA and the CDA's administrator in writing, within ten (10) days after recordation of a deed of conveyance, of the transfer of any interest in land owned by the Developer indicating the tax map parcel number of the property sold and the purchaser of the property. However, any failure to provide any disclosure or notice specified by this paragraph shall have no effect on the obligation of anyone to pay any Special Assessment or Special Tax, if applicable, and all such purchasers shall be fully liable for such payments whether or not any such disclosure is made or notice given.

(k) Administrative Costs of the City. The City shall be reimbursed for its costs and expenses associated with the CDA, the West Falls District and the Bonds, including but not

limited to the administration and collection of Special Assessment revenues, and, if applicable, Special Tax revenues. Such costs and expenses may be deducted by the City in its remittance to the Trustee for the Bonds as set forth above in paragraph 5(d)(1), provided that an initial payment for such purposes may be paid from proceeds of the Bonds, if any are available for that purpose, in lieu of deducting it from the first payment to the Trustee of Annual Installment revenues. In addition to administrative expenses, the City shall be entitled to recover any additional costs incurred by the City in conjunction with any and all proceedings to collect the amounts payable to the CDA hereunder, including but not limited to tax foreclosure, administrative and other proceedings.

(l) Administrative Costs of the CDA. On or before the Closing Date, and thereafter on or before February 15 of each year, the CDA shall submit a proposed budget to the City, showing the CDA's anticipated administrative costs for the next fiscal year. No such proposed budget shall exceed the expenses reasonably anticipated to be incurred by the CDA for that year. If the City approves the budget, then the CDA may seek reimbursement for any administrative cost incurred that is shown on the approved budget by submitting an invoice for such cost to the City, which will then direct the Trustee to reimburse the CDA out of any Special Assessment revenues or Special Tax revenues available for that purpose.

6. Additional Covenants.

(a) The CDA agrees to comply with the continuing disclosure requirements of Securities and Exchange Commission Rule 15c2-12 even if the Bonds are exempt from such Rule and to furnish draft copies of all proposed filings under such Rule to the City Attorney and the City Manager for review and comment prior to such filing. The Developer and the City shall cooperate with the CDA and shall endeavor to provide information with respect to the Developer, the Public Improvements, the Special Assessment, and the Special Tax, as appropriate, reasonably requested by the CDA in connection with the CDA's disclosure obligations.

(b) The CDA will engage a professional administrator, who may be a City employee, to oversee its financial affairs and shall obtain an annual report of the CDA's finances from such administrator. Copies of such financial report and all other reports required by the Trustee for the Bonds and the owners of the Bonds shall be furnished to the City Manager as soon as they are available to the CDA. The CDA will provide draft annual financial statements to the City prepared in accordance with generally accepted accounting principles. Unless otherwise approved by the City, the CDA's audited financial statements will be audited by the auditor engaged by the City to audit the City's financial statements. The fiscal year of the CDA shall be from July 1 through June 30.

(c) The Developer and the CDA agree that the Public Improvements will be built in accordance with all applicable federal, state, and local laws, rules, and regulations and applicable specifications of the City.

(d) The City Council has complete discretion in selecting and appointing members of the board of the CDA. Neither the Developer nor the CDA nor any other person shall have any right to circumscribe that discretion in any way.

7. **Approved Budget; Notice of Appropriation.** The City shall furnish to the CDA and the Trustee as soon as available a copy of the approved budget of the City for the next succeeding fiscal year of the City. The City Manager shall deliver to the CDA and to the Trustee for the Bonds, within ten (10) days after the beginning of each fiscal year of the City, a written notice specifying the amounts appropriated by the City Council to the CDA during such fiscal year. The City agrees to notify the Trustee for the Bonds and the Electronic Municipal Market Access (EMMA) system administered by the Municipal Securities Rulemaking Board in the event the City Council fails to appropriate any amounts otherwise payable hereunder by the City.

8. **Prerequisites to Issuance of Bonds.** The CDA agrees that no Bonds will be issued until the Developer has satisfied the prerequisites set forth in this paragraph. The Developer agrees that it will provide the following to the City in form and substance reasonably satisfactory to the City before the issuance of any Bonds:

(a) Such information and assurances as are necessary to complete the disclosure documents prepared in connection with the sale of the Bonds;

(b) Confirmation that the Project complies with all applicable zoning requirements;

(c) Such engineering and other reports regarding the Public Improvements and the Project as the City shall reasonably require;

(d) Financial statements or other satisfactory evidence of the financial stability and capacity of the Developer to construct and operate the Project, which information shall be updated immediately before the sale of any Bonds to ensure that there has been no material adverse change in the developer's financial position;

(e) A development agreement in a form mutually agreeable to the parties;

(f) An administrative services agreement in a form mutually agreeable to the parties;
and

(g) Evidence of financing for the Project.

9. **Approval by City.** Any approval or consent required of the City under this Memorandum may be given by the City Manager or such officer's designee unless action by the City Council is required by the express terms of this Memorandum or required by applicable law.

10. **Successors and Assigns.** This Memorandum shall be binding upon, inure to the benefit of and be enforceable by the parties and their respective successors and assigns.

11. **Amendments.** This Memorandum may be amended only in writing signed by each of the parties hereto or their successors and assigns.

12. **Term.** This Memorandum shall be in full force and effect until all Bonds have been paid or deemed no longer outstanding under the Indenture.

13. Severability. If any clause, provision or section of this Memorandum is held to be illegal or invalid by any court, the invalidity of the clause, provision or section shall not affect any of the remaining clauses, provisions or sections, and this Memorandum shall be construed and enforced as if the illegal or invalid clause, provision or section had not been contained in it.

14. Counterparts. This Memorandum may be executed in any number of counterparts, each of which shall be deemed to be an original, and all of which together shall constitute but one and the same instrument.

15. Recitals. The recitals set forth at the beginning of this Memorandum are incorporated into and made a part of this Memorandum as though they were fully set forth in this Section 15 and constitute representations and understandings of the parties hereto.

16. Governing Law. This Memorandum shall be governed by the laws of the Commonwealth of Virginia without regard to its conflict of law rules.

17. Notices. Any notice, request or other deliveries required to be given hereunder shall be deemed given if sent by registered or certified mail, or overnight delivery service, postage prepaid, addressed to the following addresses:

City: City of Falls Church, Virginia
300 Park Avenue
Falls Church, Virginia 22046
Attention: Wyatt Shields, City Manager

with a copy to: Carol McCoskrie, Esq.
Falls Church City Attorney
300 Park Avenue
Falls Church, Virginia 22046

CDA: West Falls Community Development Authority
300 Park Avenue
Falls Church, Virginia 22046
Attention: Wyatt Shields, Falls Church City Manager

with a copy to: Carol McCoskrie, Esq.
Falls Church City Attorney
300 Park Avenue
Falls Church, Virginia 22046

with a copy to: MuniCap, Inc.
8965 Guilford Road, Suite 210
Columbia, Maryland 21046
Attention: Keenan Rice, President

Developer: FCGP Development LLC
c/o Hoffman & Associates, Inc.

760 Maine Avenue, S.W.
Washington, D.C. 20025
Attention: Shawn Seaman

with a copy to: Pillsbury Winthrop Shaw Pittman LLP
1650 Tysons Boulevard, 14th Floor
McLean Virginia 22102
Attention R.J. Davis

Any party may designate any other addresses for notices or requests or other deliveries by giving notice under this Section 17.

18. Exhibits. All exhibits to this Memorandum are incorporated in and are a part of this Memorandum as if set out fully in the main text of this Memorandum.

19. Savings Clause. Notwithstanding any provision elsewhere in this Memorandum, the parties recognize and affirm that it is their intent that either the CDA or some other public entity will be the owner for federal income tax purposes of each of the Public Improvements to be financed in whole or part with the proceeds of the Bonds and, accordingly, any provision in this Memorandum inconsistent with that intent is deemed void and unenforceable. Furthermore, any provision of this Memorandum regarding the use of any Public Improvements to be financed in whole or part with the proceeds of Bonds tax-advantaged for federal income tax purposes will be subject to review and approval by bond counsel retained by or on behalf of the issuer of such Bonds prior to issuance of any such Bonds, and will be amended by the parties to ensure compliance with applicable law at the time of any such issuance if such amendment is deemed necessary by that bond counsel and is acceptable to the City Council.

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IN WITNESS WHEREOF, the parties have executed this Memorandum of Understanding as of the day and year first above written.

**WEST FALLS COMMUNITY
DEVELOPMENT AUTHORITY**

By: _____
Chairman

CITY OF FALLS CHURCH, VIRGINIA

By: _____
City Manager

FCGP DEVELOPMENT, LLC,
a Delaware limited liability company

By: HOFFMAN & ASSOCIATES, LLC,
a District of Columbia limited liability
company

By: _____
Name:
Title:

**[Other Property Owner Signature Blocks to
follow]**

SCHEDULE I

[PROPERTY OWNERS WITHIN THE DISTRICT]

Exhibit A
CDA Property

Exhibit B

Public Improvements

Exhibit C

Ordinance

Exhibit D

Rate and Method of Apportionment of Special Assessment